

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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SKYLER LUSK, TIA COUNCIL, VIKTORIA
O'BRIEN, AND JUSTIN BYROAD, *on behalf of*
themselves and all other employees similarly situated,

Plaintiffs,

-against-

SERVE U BRANDS, INC., INSOMNIA COOKIES,
LLC, AND SETH BERKOWITZ,

Defendants.

Civ. No.: 17-cv-6451 (MAT)(MWP)

-----X
STIPULATION OF DISMISSAL WITHOUT PREJUDICE
PURSUANT TO FED. R. CIV. P. 41

WHEREAS, the parties in the above-referenced action have reached a settlement
in principle to resolve this matter;

WHEREAS, the settlement also encompasses the claims and putative class claims
of the Plaintiffs in the action styled *Zeke Gazda, on behalf of himself and all other employees similarly*
situated v. Serve U Brands Inc., Insomnia Cookies, LLC, and Seth Berkowitz, pending in the Supreme Court
of the State of New York, Monroe County, Index No.: E2019009233 ("State Court Action");

IT IS NOW THEREFORE AGREED,

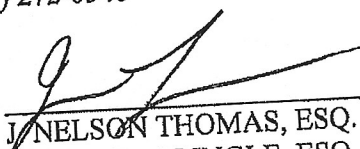
1. For administrative convenience and to ensure the issuance of a single
integrated, easily-understood settlement notice, the above action is dismissed without prejudice
pending finalization of the parties' settlement and approval of same in the State Court Action.

2. The FLSA and applicable state law claims of the individuals who have
consented to join the above action are tolled pending finalization of the settlement. Further, any

and all New York, Indiana and Michigan Rule 23 claims asserted in the amended complaint in this action, are similarly tolled pending finalization of the settlement. In the event a settlement is not finalized, tolling pursuant to this paragraph shall cease 30 days after (a) either party declares the settlement negotiations terminated, or (b) days after the application for approval of the settlement is denied.

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T: (585) 272-0540

By:

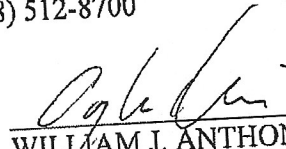

J. NELSON THOMAS, ESQ.
MICHAEL J. LINGLE, ESQ.
JESSICA L. LUKASIEWICZ, ESQ.

Dated:

11-13-19

JACKSON LEWIS P.C.
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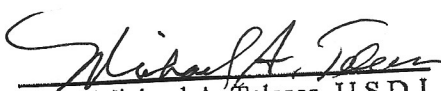
By:


WILLIAM J. ANTHONY, ESQ.
NOEL P. TRIPP, ESQ.
DOUGLAS J. KLEIN, ESQ.

Dated:

11-13-19

SO ORDERED on this 14 day of November, 2019


Hon. Michael A. Telesca, U.S.D.J.